

REMARKS

In the Office Action, the Examiner rejected claims 1-3, 7-10, 16-19, 21-22 and 25-28. By this Response, claims 1, 8 and 16 are amended. Currently, claims 1-3, 7-10, 16-19, 21-22 and 24-28 remain pending in the present application and are believed to be in condition for allowance. In view of the following remarks, Applicants respectfully request allowance of all pending claims.

Rejection Under 35 U.S.C. § 103

In the Office Action, the Examiner rejected claims 1-3, 7, 16-19, 22 and 26 as obvious over Pettersen (U.S. Patent No. 6,826,594), claims 8-10, 21, 24-25 and 27 as obvious over Pettersen in view of Thurston (U.S. Patent No. 6,865,716), and claim 28 as obvious over Pettersen in view of Ellison et al. (U.S. Patent No. 6,487,547, hereinafter the "Ellison" reference). Applicants respectfully traverse these rejections.

Legal Precedent

The burden of establishing a *prima facie* case of obviousness falls on the Examiner. *Ex parte Wolters and Kuypers*, 214 U.S.P.Q. 735 (PTO Bd. App. 1979). Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention absent some teaching or suggestion supporting the combination. *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984). The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d. 1430 (Fed. Cir. 1990). Accordingly, to establish a *prima facie* case, the Examiner must not only show that the combination includes *all* of the claimed elements, but also a convincing line of reason as to why one of ordinary skill in the art would have found the claimed invention to have been obvious in light of the teachings of the references. *Ex parte Clapp*, 227 U.S.P.Q. 972 (B.P.A.I. 1985). The Examiner must provide objective evidence, rather than subjective belief and unknown authority, of the requisite motivation or suggestion to

combine or modify the cited references. *In re Lee*, 61 U.S.P.Q.2d. 1430 (Fed. Cir. 2002). Moreover, a statement that the proposed modification would have been "well within the ordinary skill of the art" based on individual knowledge of the claimed elements cannot be relied upon to establish a *prima facie* case of obviousness without some *objective reason to combine* the teachings of the references. *Ex parte Levengood*, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993); *In re Kotzab*, 217 F.3d 1365, 1371, 55 U.S.P.Q.2d. 1313, 1318 (Fed. Cir. 2000); *Al-Site Corp. v. VSI Int'l Inc.*, 174 F.3d 1308, 50 U.S.P.Q.2d. 1161 (Fed. Cir. 1999). A concrete suggestion must be present in the cited art for a proper obviousness rejection to be made. *C.R. Bard Inc. v. M3 Systems Inc.*, 48 USPQ 2d 1225 (Fed. Cir. 1998).

Further, the pending claims must be given an interpretation that is reasonable and consistent with the *specification*. See *In re Prater*, 415 F.2d 1393, 1404-05, 162 U.S.P.Q. 541, 550-51 (C.C.P.A. 1969) (emphasis added); M.P.E.P. §§ 608.01(o) and 2111. Indeed, the specification is "the primary basis for construing the claims." See *Phillips v. AWH Corp.*, No. 03-1269, -1286, at 13-16 (Fed. Cir. July 12, 2005) (*en banc*). One should rely *heavily* on the written description for guidance as to the meaning of the claims. See *id.*

Interpretation of the claims must also be consistent with the interpretation that *one of ordinary skill in the art* would reach. See *In re Cortright*, 165 F.3d 1353, 1359, 49 U.S.P.Q.2d 1464, 1468 (Fed. Cir. 1999); M.P.E.P. § 2111. "The inquiry into how a person of ordinary skill in the art understands a claim term provides an objective baseline from which to begin claim interpretation." See *Collegenet, Inc. v. ApplyYourself, Inc.*, No. 04-1202, -1222, 1251, at 8-9 (Fed. Cir. August 2, 2005) (quoting *Phillips*, No. 03-1269, -1286, at 16). The Federal Circuit has made clear that derivation of a claim term must be based on "usage in the ordinary and accustomed meaning of the words amongst artisans of ordinary skill in the relevant art." See *id.*

First Rejection

In the Office Action, the Examiner rejected claims 1-3, 7, 16-19, 22 and 26 as obvious over the Pettersen reference. Applicants respectfully traverse this rejection.

Claim 1

The Examiner's rejection is flawed for a number of reasons. The cited reference does not teach or suggest "generating the object file in real-time, the object file configured to access dynamic data from the server, wherein the dynamic data comprises information indicative of status of the managed server, and wherein the dynamic data is generated in real-time," as recited by independent claim 1. (Emphasis added.) In contrast, the Pettersen reference teaches retrieving static, pre-stored advertisements and inserting the static advertisements in a web page dynamically. *See e.g.*, Pettersen, col. 7, ll. 11-13; col. 8, ll. 37-42; and col. 10, ll. 35-46. The advertisements are stored in a smart zone content database 785 (*Id.* at col. 7, ll. 11-13) and dynamically inserted into a web page (*See id.* at col. 7, ll. 6-8) when the web page is displayed. However, the advertisements do not change, i.e., the advertisement data is static. *See id.* at col. 7, ll. 52-59. Indeed, the only disclosed method of changing the advertisements in the database 785 is manually editing the list of advertisements. *See id.* While the Pettersen reference uses the term "dynamic content" to refer to the advertisements, the advertisements are only dynamic in their use, not in their origin. That is, the advertisements are neither dynamic nor generated dynamically; they are applied dynamically to a web page. Thus, the Pettersen reference does not teach or suggest an object file configured to access dynamic data. In view of these deficiencies among others, the Pettersen reference cannot render obvious claim 1 or the claims that depend therefrom.

Additionally, the cited reference does not teach or suggest dynamic data comprising "information indicative of status of the managed server," as recited by independent claim 1. As discussed above, the Pettersen reference discloses dynamically inserting advertisements from a static database 785 into a web page. However, the

Pettersen reference does not disclose advertising the status of a managed server. Thus, the advertisements are not indicative of the status of a managed server. For this reason also, the Pettersen reference cannot render obvious claim 1 or the claims that depend therefrom.

Applicants further note that the Peterson reference does not suggest any modifications to remedy these deficiencies. The pre-stored advertisement data disclosed by the Pettersen reference is unsuitable for indicating the status of a managed server. The status of a server may change, but the array of advertisements in the database is fixed. A static array of data is not suited to reflect the changing status of a server. Thus, the Pettersen reference does not suggest a modification including storing information indicative of the status of a managed server.

Claim 16

The Examiner's rejection is flawed for other reasons as well. The Peterson reference does not teach or suggest "a call analysis module adapted to identify dynamic data desired by the call, wherein the dynamic data is real-time data indicative of the status of the managed server," as recited by independent claim 16. (Emphasis added.) In contrast, as discussed above, the Pettersen reference teaches dynamically inserting advertisements into a web page from the static database 785. Thus, the Pettersen reference does not disclose a call analysis module adapted to identify dynamic data. In view of these deficiencies among others, the Pettersen reference, taken alone or in hypothetical combination with the other cited references, cannot render obvious claim 16 or the claims that depend therefrom.

Second Rejection

In the Office Action, the Examiner rejected claims 8-10, 21, 24-25 and 27 as obvious over the Pettersen reference in view of the Thurston reference. Applicants respectfully traverse this rejection.

Claim 8

The Examiner's rejection is flawed for a number of reasons. The cited references do not teach or suggest, alone or in hypothetical combination, "accessing dynamic data from the embedded system and creating the dynamic data file in real-time independently of the Web page and in response to the data request, wherein the dynamic data is generated in real-time," as recited by independent claim 8. (Emphasis added.) In contrast, as noted above, the Pettersen reference teaches retrieving advertisements from a static database 785 of advertisements. The Pettersen reference does not teach generating advertisements dynamically. Moreover, the secondary reference fails to disclose or suggest these features. The Thurston reference discloses populating an HTML document with locale specific text that is pre-stored in a string table. See Thurston, col. 6, ll. 19-32. The data in the string table is not generated dynamically, but rather the data is static. Thus, the Thurston reference does not obviate the previously discussed deficiency in the Pettersen reference. In view of these deficiencies among others, the Pettersen reference and the Thurston reference, taken alone or in hypothetical combination, cannot render obvious claim 8 or the claims that depend therefrom.

Claim 21, 24, 25 and 27

Claims 21, 24, 25, and 27 depend from independent claim 16. The rejection of claims 21, 24, 25 and 27 under Section 103 is defective for at least the reasons set forth above with respect to the rejection of claim 16 under Section 103. Specifically, the Pettersen reference does not disclose or suggest "a call analysis module adapted to identify dynamic data desired by the call, wherein the dynamic data is real-time data indicative of the status of the managed server," as recited by parent claim 16. Further, the secondary

reference fails to cure this deficiency. As noted above, the Thurston reference teaches static data, i.e., pre-translated strings, that are dynamically inserted into web pages. Thurston does not teach or suggest that the translated strings are generated dynamically. Thus, the Thurston reference does not disclose a call analysis module adapted to identify dynamic data. Accordingly, the Pettersen reference and the Thurston reference, taken alone or in hypothetical combination, cannot render the Applicants' claims obvious.

Third Rejection

In the Office Action, the Examiner rejected claim 28 as obvious over the Pettersen reference in view of the Ellison reference. Applicants respectfully traverse this rejection.

Claim 28 depends from independent claim 16. The rejection of claim 28 under Section 103 is defective for at least the reasons set forth above with respect to the rejection of claim 16 under Section 103. In particular, the Pettersen reference does not disclose or suggest "a call analysis module adapted to identify dynamic data desired by the call, wherein the dynamic data is real-time data indicative of the status of the managed server," as recited by parent claim 16. Additionally, the secondary reference fails to cure this deficiency. The Ellison reference, which was cited for a lights-out management module (*See* Office Action, page 10), does not disclose a call analysis module adapted to identify dynamic data. Indeed, the Ellison reference does not appear to disclose dynamic data, let alone a call analysis module adapted to retrieve such data. Accordingly, the Pettersen reference and the Ellison reference, taken alone or in hypothetical combination, cannot render the Applicants' claims obvious.

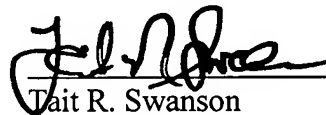
For these reasons among others, Applicants respectfully request withdrawal of the rejections under 35 U.S.C. § 103.

Conclusion

Applicants respectfully submit that all pending claims should be in condition for allowance. However, if the Examiner believes certain amendments are necessary to clarify the present claims or if the Examiner wishes to resolve any other issues by way of a telephone conference, the Examiner is kindly invited to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted,

Date: February 10, 2006



Tait R. Swanson
Registration No. 48,226
(281) 970-4545

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, Colorado 80527-2400